

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ARCHER AND WHITE SALES, INC.,

Plaintiff,

V.

HENRY SCHEIN, INC., DANAHER CORPORATION, INSTRUMENTARIUM DENTAL INC., DENTAL EQUIPMENT LLC, KAVO DENTAL TECHNOLOGIES, LLC, DENTAL IMAGING TECHNOLOGIES, CORPORATION, PATTERSON COMPANIES, INC., BENCO DENTAL SUPPLY CO.,

Defendants.

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CIVIL ACTION NO. 2:12-CV-00572-JRG

ORDER

Before the Court is Defendant Henry Schein, Inc.’s (“Schein”) Motion for a Stay Pending Decision on Petition for Certiorari and Request for Expedited Briefing (the “Motion”). (Dkt. No. 458.) In the Motion, Schein represents that it intends to file a petition for writ of certiorari in the United States Supreme Court seeking review of the Fifth Circuit’s decision affirming this Court’s denial of the motions to compel arbitration. (*Id.* at 1.) Accordingly, Schein requests that this Court stay the trial in this action pending the Supreme Court’s decision on such forthcoming petition for writ of certiorari. (*Id.* at 4.)

Having reviewed both the Motion and Plaintiff Archer and White Sales, Inc.'s response to the same, the Court is not inclined to presume that Schein will file a petition for writ of certiorari prior to the trial date in this case of February 3, 2020. Nor will the Court presume that the Supreme Court is inclined to grant such a petition should it be filed prior to the fast-approaching trial date. Furthermore, should the Supreme Court feel a stay is warranted, a mechanism for Schein to seek

such a stay from the Supreme Court exists and is open to it. *See* SUP. CT. R. 23. In light of the foregoing, the Court is of the opinion that the Motion should be and hereby is **DENIED**.

So ORDERED and SIGNED this 3rd day of January, 2020.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE